

June 2, 2004

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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Seattle, Washington 98104  
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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **E0400059**

**PETER J. MORT**  
Code Enforcement Appeal

Location: 1403 South Thistle Street

Appellant: Peter J. Mort, *represented by*  
**Gerald F. Robison**, attorney  
648 S. 152nd Street, #7  
Burien, WA 98148  
Telephone: (206) 243-4219

King County: Department of Development and Environmental Services  
*represented by* **DenoBi Olegba** and Bill Turner  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055-1219  
Telephone: (206) 205-1528 and 296-7084  
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**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Appeal granted

**EXAMINER PROCEEDINGS:**

Hearing Opened:	June 30, 2004
Hearing Closed:	June 30, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

1. On March 23, 2004, the King County Department of Development and Environmental Services, Code Enforcement Section, issued a notice and order to Peter Mort concerning property located at 1403 South Thistle Street in the South Park neighborhood. The notice and order cited the property for an accumulation of inoperable vehicles, auto parts, scrap materials and junk and debris; occupancy of a recreational vehicle as a dwelling unit; and operation of a real estate business in violation of home occupation standards. Mr. Mort filed a timely appeal of the notice and order asserting that some of the uses cited therein were legally permitted and offering to clean up the junk and debris.
2. Although Mr. DenoBi Olegba, the code enforcement officer assigned to this case, was not present at the June 30, 2004, public hearing, his staff report acknowledges that the business use violation alleged within the notice and order has been resolved. Mr. Mort offered testimony and photographs indicating that the site had been cleaned of junk and debris and that the previously occupied recreational vehicle and other inoperable vehicles had been removed from the site. Code enforcement officer Bill Turner, who represented the Department at the hearing, did not offer any testimony that contradicted Mr. Mort. References within the staff report to construction on the site without building permits relate to matters outside the scope of this notice and order and therefore beyond the purview of this hearing.

**CONCLUSIONS:**

1. The Appellant's uncontradicted testimony at the public hearing was that the remaining issues cited within the notice and order had been corrected. His photographs support his testimony to the extent that the RV appears to have been moved off the site, the back yard is cleaner and buckets and other materials piled along the side of the house now appear to be gone. Based on the evidence of record the appeal must be granted.
2. In the absence from the hearing of Mr. Olegba, the Appellant's right to prevail is predicated more on a lack of contrary evidence from the Department than on the persuasive power of Mr. Mort's testimony and supporting photographs. If Mr. Olegba inspects the property and finds that all the conditions cited in the notice and order have not been corrected as represented by the Appellant, he may submit within seven days of the date of this order a written request to reopen the hearing stating the reasons therefor, and such request will be granted. Alternatively, to the extent that the uncorrected problems may deal primarily with inoperable vehicles and junk and debris, the Department has the option to incorporate these citations into a later notice and order. The findings and conclusions stated herein relating to inoperable vehicles, scrap materials, and junk and debris are entered without prejudice to their being reasserted by the Department in a subsequent notice and order.

## DECISION:

The appeal is GRANTED.

## ORDER:

1. Within seven days of the date of this order the Department may file with the Hearing Examiner a written motion that the case be reopened. Supporting documentation substantiating the request should also be submitted.

ORDERED this 2nd day of June, 2004.

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Stafford L. Smith  
King County Hearing Examiner

TRANSMITTED this 2nd day of June, 2004, to the parties and interested persons of record:

Peter J. Mort  
1403 S. Thistle St.  
Seattle WA 98108

Gerald Robison  
648 S. 152nd St., #7  
Burien WA 98148

Suzanne Chan  
DDES, Code Enf.  
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Elizabeth Deraitus  
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DenoBi Olegba  
DDES/LUSD  
Code Enforcement  
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Bill Turner  
DDES/LUSD  
Code Enf. Section  
MS OAK-DE-0100

## NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE JUNE 30, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT  
AND ENVIRONMENTAL SERVICES FILE NO. E0400059.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Bill Turner, representing the Department; Gerald F. Robison, representing the Appellant; and Peter J. Mort.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Staff Report to the Hearing Examiner dated June 22, 2004
- Exhibit No. 2 Copy of the Notice & Order issued March 23, 2004
- Exhibit No. 3 Copy of the Statement of Appeal received April 9, 2004
- Exhibit No. 4 Copies of codes cited in the Notice & Order
- Exhibit No. 5 Copies of photographs (A-M and O-R) taken by DenoBi Olegba
- Exhibit No. 6 Photographs (a-i) taken by Peter J. Mort

SLS:ms  
E0400059 RPT